



**MACEDONIA COURT
MODERNIZATION PROJECT**

- Unofficial Translation –

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AMANDMENTS

**XX, XXI, XXII, XXIII, XXIV, XXV, XXVI, XXVII, XXVIII, XXIX and XXX TO
THE CONSTITUTION OF THE REPUBLIC OF MACEDONIA**

December 2005

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XX, XXI, XXII, XXIII, XXIV, XXV, XXVI, XXVII, XXVIII, XXIX and XXX TO
THE CONSTITUTION OF THE REPUBLIC OF MACEDONIA

These Amendments are an integral part of the Constitution of the Republic of Macedonia and shall enter into force on the day they are enacted.

Amendment XX

1. An administrative body or organization or other institution of public competence can impose sanctions for offences stipulated by law.

Against a final judgment for an offense, court protection shall be guaranteed under terms and procedures stipulated by law.

2. This Amendment shall amend Article 13 of the Constitution of the Republic of Macedonia.

Amendment XXI

1. The right to appeal against judgments passed in the first instance procedure before courts shall be guaranteed.

The right to appeal or other kind of legal protection against individual legal enactments passed in the first instance procedure by an administrative body or an organization or other body of public competence, shall be regulated by law.

This Amendment shall replace Article 15 of the Constitution of the Republic of Macedonia.

Amendment XXII

1. Shall nominate two members to the Judicial Council of the Republic of Macedonia.
2. This Amendment shall replace line 5 of Article 84 of the Constitution of the Republic of Macedonia.

Amendment XXIII

1. The President shall enjoy immunity. The Assembly decides upon his/her immunity.
2. This amendment replaces paragraph 3 of Article 89 of the Constitution of the Republic of Macedonia.

Amendment XXIV

1. Shall nominate a Public Prosecutor of the Republic of Macedonia upon previous recommendation of the Council of Public Prosecutors.
2. This Amendment shall replace line 12 of Article 91 of the Constitution of the Republic of Macedonia.

Amendment XXV

1. The judicial power is exercised by courts.

Courts are autonomous and independent. Courts decide on the basis of the Constitution and laws and international agreements ratified in accordance with the Constitution.

Extraordinary courts are prohibited.

The types of courts, their competence, establishment, abolition, their organization and composition, as well as the procedures they follow, shall be regulated by law adopted with two-third majority vote of the total number of Representatives.

2. Item 1 of this Amendment shall replace Article 98 of the Constitution of the Republic of Macedonia.

Amendment XXVI

1. The office of a judge shall end:

- if he/she requests it himself;
- if he/she permanently loses the capacity to perform judicial duties, which is determined by the Judicial Council of the Republic of Macedonia;
- if he/she fulfills requirements for retirement pension;
- if he/she is convicted for a criminal offence and receives an enforceable court sentence to unsuspended prison term of at least six months; and
- if he/she is elected or appointed to a different public office, unless his/her judicial office is on hold under terms and conditions determined by law.

The judge shall be removed from office:

- due to serious violation of discipline which renders him/her unworthy to perform the judicial duties, as proscribed by law, and
- due to unprofessional and negligent performance of the judicial duties under terms and conditions determined by law.

2. Item 1 of this amendment shall replace paragraph 3 of Article 99 of the Constitution of the Republic of Macedonia.

AMENDMENT XXVII

1. A judge can not be held criminally responsible for expressing an opinion and decision-making while reaching judicial decisions.

A judge can not be detained without an approval of the Judicial Council of the Republic of Macedonia, unless caught committing a criminal offence for which the at least five years imprisonment is prescribed by law.

2. The judge's office is incompatible with membership to a political party or holding other public office or profession, as determined by law.
3. The item 1 of this amendment shall replace paragraph 2 of Article 100 of the Constitution of the Republic of Macedonia, and the item 2 of this Amendment shall replace paragraph 3 of Article 100 of the Constitution of the Republic of Macedonia.

AMENDMENT XXVIII

1. The Judicial Council of the Republic of Macedonia is an independent and autonomous judicial body. The Council ensures and guarantees the independence and the autonomy of the judicial power.

The Council shall consist of 15 members.

The President of the Supreme Court of the Republic of Macedonia and the Minister of Justice shall be members of the Council by virtue of their office.

Eight members of the Council shall be judges elected by judges. Three of the elected members shall be representatives of the non-majority communities of the Republic of Macedonia, which will ensure proper and equitable representation of the citizens of all communities.

The Assembly of the Republic of Macedonia shall elect 3 members to the Judicial Council with majority of the votes of the total number of Representatives, provided there is majority of votes of the total number of Representatives who belong to the non-majority communities in the Republic of Macedonia.

Two members of the Council shall be nominated by the President of the Republic of Macedonia, but elected by the Assembly of the Republic of Macedonia, of whom one shall be a representative of the non-majority communities of the Republic of Macedonia.

The members of the Judicial Council elected by the Assembly of the Republic of Macedonia, i.e. nominated by the President of the Republic of Macedonia, shall be university law professors, lawyers and other distinguished jurists. The term of office of the elected members to the Council shall be six years, with the right to be re-elected.

The conditions and the procedure for election, as well as the basis and the procedure for termination and removal from office of a member of the Council, shall be regulated by law.

The office of an elected member to the Council is incompatible with membership to a political party or holding other public offices or professions, as determined by law.

1. This Amendment shall replace Article 104 of the Constitution of the Republic of Macedonia.

AMENDEMENT XXIX

1. The Judicial Council of the Republic of Macedonia:

- elects and dismisses judges and lay judges;
- determines termination of judicial office;
- elects and dismisses Presidents of Courts;
- follows and evaluates judicial work;
- decides upon judicial disciplinary responsibility;
- decides upon removal of immunity of judges;
- nominates two judges to the Constitutional Court of the Republic of Macedonia among the judges;
- performs other duties stipulated by Law.

In electing judges, lay-judges and presidents of courts, proper and equitable representation of citizens who belong to all communities, shall be observed.

The Council shall submit annual reports for its work to the Assembly of the Republic of Macedonia whose form, contents and ways of enactment shall be regulated by law.

2. This amendment shall replace Article 105 of the Constitution of the Republic Of Macedonia, and line 15 of paragraph 1 of Article 68 of the Constitution of the Republic of Macedonia, shall be deleted.

AMENDMENT XXX

1. The Public Prosecutor's Office shall perform its duties on the basis of the Constitution, the laws and the international agreements ratified in compliance with the Constitution of the Republic of Macedonia.

The duties of the Public Prosecutor's Office are performed by the Public Prosecutor of the Republic of Macedonia and by public prosecutors.

The competence, the establishment, the abolishment, the organization and functioning of the Public Prosecutor's Office shall be regulated by law enacted with two-third majority votes of the total number of the Representatives.

The Public Prosecutor of the Republic of Macedonia shall be appointed and dismissed by the Assembly of the Republic of Macedonia to a period of 6 years with the right to re-appointment.

Public prosecutors shall be elected by the Council of Public Prosecutors to an unlimited term of office.

In electing public prosecutors, proper and equitable representation of citizens who belong to all communities, shall be observed.

The Council shall decide upon dismissal of public prosecutors.

The competence, the composition and the structure of the Council, the term of office of its members, as well as the basis and the procedure for termination and removal from office of a member of the Council, shall be regulated by law.

The basis and the procedure for termination and removal from office of the Public Prosecutor of the Republic of Macedonia and public prosecutors shall be regulated by law.

The offices of the Public Prosecutor of the Republic of Macedonia and of a public prosecutor are incompatible with membership to a political party or holding other public offices and professions, as determined by law.

Political organizing and political activities shall be forbidden in the Public Prosecutor's Office.

2. This Amendment shall replace paragraphs 2 and 3 of Article 106 of the Constitution of the Republic of Macedonia, and Article 107 of the Constitution of the Republic of Macedonia, shall be deleted.

DECISION
TO PROCLAIM THE CONSTITUTIONAL LAW ON IMPLEMENTATION OF
AMENDMENTS XX TO XXX TO THE CONSTITUTION OF THE REPUBLIC
OF MACEDONIA

The Constitutional Law on Implementation of Amendments XX to XXX to the Constitution of the Republic of Macedonia, adopted by the Assembly of the Republic of Macedonia at its December 7, 2005 session, is proclaimed enacted.

THE ASSEMBLY OF THE REPUBLIC OF MACEDONIA

No. 07-4543/1
December 7 2005
Skopje

President
of the Assembly of the Republic
of Macedonia
Dr. Ljupco Jordanovski

CONSTITUTIONAL LAW
ON IMPLEMENTATION OF AMEDNDMENTS XX TO XXX TO THE
CONSTITUTION OF THE REPUBLIC OF MACEDONIA

Article 1

The Amendments XX to XXX to the Constitution of the Republic of Macedonia shall enter into force on the day they are proclaimed by the Assembly of the Republic of Macedonia, unless this Constitutional Law prescribes any other manner of implementation of some of the provisions of the Amendments.

Article 2

The following laws shall be adopted by June 30, 2006 at the latest:

- The Law on the Judicial Council of the Republic of Macedonia;
- The Law on the Courts, and
- The Misdemeanor Law.

Article 3

The following laws shall be adopted nine months at the latest from the day the Amendments XX to XXX to the Constitution of the Republic of Macedonia are proclaimed:

- The Law to amend the Law on the Public Prosecutor's Office, and
- The Law to Amend the Law on the Government of the Republic of Macedonia.

Eighteen months at the latest from the day the Amendments XX to XXX to the Constitution of the Republic of Macedonia are proclaimed, the laws on the basis of which an administrative body or organization or other body with public competence, can impose sanctions for an offence, shall be brought into accord.

Article 4

Until the Law on the Courts and the Law on Judicial Council of the Republic of Macedonia enter into force, the election and dismissal of judges shall be in accordance with the Law on the Courts ("The Official Gazette of the Republic of Macedonia" number 36/95, 45/95 and 64/2003) and the Law on the Republic Judicial Council ("The Official Gazette of the Republic of Macedonia" number 80/92, 50/99 and 43/2003).

Article 5

Until the Law on the Public Prosecutor's Office is brought into accord with the Amendments XXIV and XXX, public prosecutors shall be elected in accordance with the Law on the Public Prosecutor's Office ("The Official Gazette of the Republic of Macedonia" number 38/2004).

Article 6

Until the Law of the Government of the Republic of Macedonia is brought into accord with Amendment XXIII, the immunity of the President and the Ministers shall be decided in accordance with the Law on the Government of the Republic of Macedonia ("The Official Gazette of the Republic of Macedonia" number 59/2000, 12/2003 and 55/2005).

Article 7

This Constitutional Law on Implementation of Amendments XX to XXX to the Constitution of the Republic of Macedonia is proclaimed by the Assembly of the Republic of Macedonia and enters into force the same day the constitutional amendments are proclaimed.